No. 89-31

Supreme Court, U.S.
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CLERK

In The

Supreme Court of the United States

October Term, 1989

FRIENDS OF WARWICK POND AND HOXSIE also WARWICK LAND TRUST, PAUL HULING, JEANNE M. FOSTER, EILEEN NAUGHTON and KATHLEEN PREISS,

Petitioners,

v.

CHILDREN'S FRIEND AND SERVICE, INC., FRANK P. SHERRY, R & F ASSOCIATES, RHODE ISLAND CENTRAL CREDIT UNION and JOHN DOES, ONE through FIVE,

Respondents,

and JAMES E. O'NEIL, in his capacity as ATTORNEY GENERAL OF THE STATE OF RHODE ISLAND,

Additional Party-Respondent.

BRIEF OF RESPONDENT JAMES E. O'NEIL, in his capacity as ATTORNEY GENERAL OF THE STATE OF RHODE ISLAND, IN OPPOSITION TO PETITIONERS' PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF RHODE ISLAND

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QUESTIONS PRESENTED

I. WHETHER THIS PETITION SHOULD BE DENIED FOR FAILURE TO RAISE A FEDERAL QUESTION OR CONSTITUTIONAL ISSUE BEFORE THE STATE COURT.

II. WHETHER PETITIONERS HAVE STANDING TO BRING THIS ACTION.

III. WHETHER PETITIONERS SHOULD BE SANCTIONED FOR FILING A FRIVOLOUS PETITION.

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No. 89-31

In The

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CITATION TO OPINION BELOW

The decision and order of the Rhode Island Supreme Court (unreported) is reproduced in the Respondent, Attorney General James E. O'Neil's, appendix. (R.A. 1-3). The decision and judgment of the Rhode Island Superior Court (also unreported) is reproduced in the Respondent, Attorney General James E. O'Neil's, appendix. (R.A. 4-5).

The Rhode Island Supreme Court denied Petitioners' appeal in *Friends of Warwick Pond v. Children's Friend and Service, Inc.*, C.A. No. 88-426, on February 23, 1989 and also denied Petition for Reargument on March 13, 1989.

JURISDICTION

Respondents assert that Petitioners have failed to raise a federal question or constitutional issue as a basis for their Writ of Certiorari and as such, they are improperly before this Court.

STATEMENT OF THE CASE

This is not a class action suit as represented in Petitioners' brief. This matter rests on a Summary Judgment granted to Respondents by the Rhode Island Courts for lack of standing by Petitioners, as well as a lack of subject matter.

Petitioners attempted to challenge Respondents' deeds, through the application of the Doctrine of Cy Pres, for a transfer of real estate clearly within the discretion of

the Respondents. Title in the entire claim evidences transfers in fee simple without restriction. (R.A. 8-16). The Rhode Island Superior Court judge granted Summary Judgment and specifically held that there was no cy pres application warranted. (R.A. 4-5). The Rhode Island Supreme Court directed in a show cause order for dismissal (R.A. 6-7) that the parties answer three (3) questions as to why the appeal should not be summarily decided. Petitioners and Respondents submitted briefs and argued to the Supreme Court. The Court concluded that cause had not been established and that Petitioners had no standing to bring the complaint, and thus, denied the appeal and affirmed the Superior Court Judgment.

It should be further observed that Petitioners removed two (2) Respondents from this case, namely, St. Timothy's Church Corporation (Warwick) and Woloohojian Realty Corporation, by filing Petitioners' Rule 19.6 Notice. (R.A. 17). These two aforementioned Respondents hold title to their respective property out of the same chain of title involving "Lakeside", the subject property. St. Timothy's Church Corporation acquired its parcel from Respondent, Children's Friend and Service, Inc., after Children's Friend and Service, Inc. acquired the entire tract of land in 1951. Woloohojian Realty Corporation acquired its parcel from St. Timothy's Church Corporation on a subdivision.

Petitioners fail to represent this information in the body of their brief. Instead they inform the Court through an independent Notice of No Interest. Petitioners' position of acquiescence in the title to these two Respondents proves validity of title in Respondent Children's Friend and Service, Inc.

ARGUMENT

I. THIS PETITION SHOULD BE DENIED FOR FAILURE TO RAISE A FEDERAL QUESTION OR CONSTITUTIONAL ISSUE BEFORE THE STATE COURT.

It is a rule of the United States Supreme Court that jurisdiction will not be granted if a federal question or constitutional issue is not raised in the State Court. In *Webb v. Webb*, 451 U.S. 493 at 495 this Court held that:

> "Because this case comes to this court from state court, the relevant jurisdictional statute is 28 U.S.C. at 1257. As applied to the circumstances of this case, the statute requires that in the state courts petitioner have 'specially set up or claimed under the Constitution . . . of . . . the United States' that right which she now seeks to have this court enforce. 28 U.S.C. at 1257(3). Similarly our rule 21.1(h) requires the petitioner to 'specify the stage in the proceedings, both in the court of the first instance and in the appellate court, at which the federal questions sought to be reviewed were raised; the method or manner of raising them and the way in which they were passed upon by the court."

Petitioners failure to allege a federal question arises from its absence in the case. This matter involves the transfer of real estate to a non-business corporation, Respondent Children's Friend and Service, Inc., and thence to private persons. Petitioners object to the fact that Respondent, Children's Friend and Service, Inc., decided to sell property it owned and was free to sell.

The Rhode Island Superior Court allowed Petitioners ample opportunity to demonstrate that they had standing. This they failed to do. The deeds in question conveyed absolute title in fee simple with no trust application nor a restrictive hold on the use of the title. Therefore, there was no need to utilize cy pres to accomplish a transfer of title. Petitioners have not been denied due process nor equal protection and the Petitioners have no claim to this title under any circumstances.

Petitioners failed to raise any federal or constitutional issue at any stage before the Rhode Island Courts. Rather, Petitioners attempt to "federalize" state rules of procedure in order to create their forum.

II. PETITIONERS HAVE NO STANDING TO BRING THIS ACTION.

Petitioners have inaccurately asserted that they have standing to contest the sale of real property by a charitable trust. While Respondent, Children's Friend and Service, Inc., is not a charitable trust, even if it were, only the Attorney General would have standing to review its actions. *Israel v. National Board of Y.M.C.A.*, 117 R.I. 614, 618, 369 A.2d 646, 649 (1977); *Accord, Leo v. Armington*, 74 R.I. 124, 59 A.2d 371 (1948); *Newport Hospital v. Harvey*, 47 R.I. 382, 383, 133 A. 648 (1926).

Petitioners' reliance on these cases is misplaced. In *Israel*, the Rhode Island Supreme Court restated the general rule of law that:

> "It is well settled in this state and elsewhere that the attorney general is the representative of the interests of beneficiaries and the public under

> charitable trusts and bequests for charitable uses and that he should be made a party in any suit in which the existence or validity of such a trust or such a bequest is really in question or the administration of such a trust is involved."

Id. at 649.

Petitioners have stated at page 3 of their Petition that this is a class action. There has been no class of individuals established which has sustained injury due to this transfer of real estate. This is nothing more than an attempt by Petitioners to conceal their actual purpose, which is to prevent the construction of residential homes in their neighborhood.

Respondent, Children's Friend and Service, Inc., a Rhode Island non-business corporation, owned the subject real property in fee simple. With such an interest, Children's Friend and Service, Inc. was free to dispose of this property without the interference of the Attorney General or anyone else.

Children's Friend and Service, Inc. is not a charitable trust, but even if it were the Attorney General has no power to review each transfer of real estate absent evidence of wrongdoing or violation of fiduciary duty. The law presumes an exercise of sound discretion by the duly appointed trustee or trustees. While pursuant to R.I. Gen. Laws § 18-9-9 "The Attorney General may investigate at any time charitable trusts for the purpose of determining and ascertaining whether they are being administered in accordance with law and with the terms and purposes thereof", there was no need to investigate Children's Friend and Service, Inc. because this Respondent was simply transferring property in which it had a fee simple

interest. This is the position taken by Respondent, Attorney General James E. O'Neil, during oral argument before the Rhode Island Supreme Court after Associate Justice Murray queried whether the Attorney General had prior knowledge of this real estate transfer. This stated position during oral argument is presumably the "Attoreny General's opinion" referred to by Petitioners in their brief at page 22. There was no formal Attorney General's Opinion nor a "phantom document" as alleged. The Attorney General is simply not empowered to represent a private party's interest in a title dispute.

Petitioners allege that they brought suit to prevent serious monetary, recreational and environmental damage to their homes and their community, but there is no relationship between Petitioners and "Lakeside".

Finally, Petitioners' reliance on *Sierra Club v. Morton, Secretary of the Interior,* 504 U.S. 727 (1972) at page 13 of their brief, is misplaced. There the property was used almost exclusively for recreational purposes. The District Court granted a preliminary injunction, the Ninth Circuit reversed that decision stating that there was "no allegation in the complaint that members of the Sierra Club would be affected by the actions of (the Respondents) other than the fact that the actions are personally displeasing or distressful to them".

The Rhode Island Supreme Court in *Matunuck Beach Hotel, Inc. v. Sheldon,* 399 A.2d 489 (R.I. 1979) indicated that in order to establish standing, a party has to show injury. The simple fact is that Petitioners have failed to establish that they had any right or interest in and to the

land in question and as such, they lack standing to bring this matter.

III. PETITIONERS SHOULD BE SANCTIONED FOR FILING A FRIVOLOUS CLAIM

The Respondent, Attorney General James E. O'Neil, herein respectfully requests that sanctions be imposed against Petitioners for willful interference with Respondent, Children's Friend and Service, Inc.'s, right to alienate property and to put the proceeds of any such sale towards the general purposes of that organization. The Attorney General is under no statutory mandate and has no ethical responsibility to review real estate transactions made by non-business corporations. This matter presently before the Court presents no federal question and Petitioners make misrepresentations as to the actions of the Attorney General regarding his role in protecting the rights of charitable beneficiaries throughout the State of Rhode Island.

CONCLUSION

For the above reasons, the Respondent James E. O'Neil, in his capacity as Attorney General of the State of Rhode Island, respectfully requests that the Petition for a Writ of Certiorari be denied.

Respectfully submitted,

STATE OF RHODE ISLAND

By Its Attorney,

JAMES E. O'NEIL, ATTORNEY GENERAL FOR THE STATE OF RHODE ISLAND

RICHARD B. WOOLLEY
Assistant Attorney General
72 Pine Street
Providence, RI 02903
(401) 274-4400
Attorneys for Respondent

APPENDIX

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
SUPREME COURT
NO. 88-426-APPEAL.

PROVIDENCE SC

FRIENDS OF WARWICK POND ET AL.,

V.

CHILDREN'S FRIEND AND
SERVICE ET AL.

ORDER

This matter was before the Supreme Court on an order issued to all parties to appear and show cause why the issues involved in this appeal should not be summarily decided.

This action arose out of the allegation by the plaintiffs that the defendants, Children's Friend and Service, Inc., as a successor charity holder, should not be permitted to sell certain land for private development and profit. They assert that the parcel of land was originally acquired for charitable purposes and under the doctrine of *cy pres* the proposed sale should not be permitted.

The Superior Court granted defendants' motion for summary judgment and ruled that the *cy pres* doctrine had no application. The court found that the original conveyances to defendant were made in fee simple, without any charitable restrictions whatever.

After examining the memoranda submitted by the parties and after hearing their counsel in oral argument, it is the conclusion of the court that cause has not been shown. We are of the opinion that the gift of the subject real estate was unrestricted and therefore it may be sold and the proceeds may be used for general corporate charitable purposes.

Moreover, the plaintiffs have no standing to bring the complaint in this action. Only the Attorney General has such standing. The Attorney General has indicated that he finds no fault with the sale of this realty by Children's Friend and Service.

Therefore, the appeal of the plaintiffs' is denied and dismissed, the judgment of the Superior Court is affirmed and the papers of the case are remanded to the Superior Court.

Entered as an Order of this Court this 23rd day of February 1989.

By Order,

/s/ ILLEGIBLE
MATTHEW J. SMITH
Clerk

Justice Kelleher did not participate.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
SUPREME COURT
No. 88-426-A.

PROVIDENCE SC

FRIENDS OF WARWICK POND
ET AL.

v.

CHILDREN'S FRIEND
AND SERVICE, ET AL.

ORDER

The petition to reargue is denied.

Justice Kelleher did not participate.

Entered as an Order of this Court this 13th day of March 1989.

By Order,

/s/ ILLEGIBLE
MATTHEW J. SMITH
Clerk

State of Rhode Island
Kent, SC.

Superior Court
KC 87-811

WARWICK LAND TRUST, INC.,
PAUL HULING, JEANNE M. FOSTER,
EILEEN NAUGHTON AND KATHLEEN PREISS,

V.

CHILDREN'S FRIEND AND SERVICE, INC.,
FRANK P. SHERRY, R&F ASSOCIATES,
RHODE ISLAND CENTRAL CREDIT UNION
AND JOHN DOES, ONE THROUGH FIVE,

V.

AND JAMES O'NEIL, IN HIS CAPACITY AS
RHODE ISLAND ATTORNEY GENERAL, AND
SAINT TIMOTHY'S CHURCH CORPORATION,
WARWICK AND WOLOOHOJIAN REALTY CORP.

JUDGMENT

This matter came on for hearing before the Court, Mr. Justice Bourcier presiding, on June 13, 1988, upon Defendant's motion for Summary Judgment pursuant to Rule 56 of the Rhode Island Rules of Civil Procedure. After hearing thereon, it is hereby

ORDERED AND ADJUDGED

1. The defendants' Motion for Summary Judgment is granted. The Court finds that the real estate in question is not subject to the application of the *cy pres* doctrine of

law which pertains to trust property, and that as a consequence thereof, there remains no material issue of fact to be resolved and defendants are entitled to Judgment as a matter of law.

2. In accordance with Rule 54(b) R.C.P., Judgment for the defendants, Children's Friend and Service, Inc., and R&F Associates on their Motions for Summary Judgment will enter upon the entry of this Judgment, the Court having determined that there is no just reason for delay.

Dated at West Warwick, Rhode Island, this 1st day of July, 1988.

Per Order,

/s/ ANTHONY PICCIRELLI
ANTHONY PICCIRELLI
Deputy Clerk

Enter:
/s/ BOURCIER, J.
BOURCIER, J.
Justice

DATED: JULY 1, 1988

FILED 1988 JULY 1, 10:11 A.M.
KENT SUPERIOR COURT
ERNEST W. REPOSA, Clerk

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
SUPREME COURT
NO. 88-426-APPEAL.

PROVIDENCE SC

FRIENDS OF WARWICK POND ET AL.

v.

CHILDREN'S FRIEND AND
SERVICE ET AL.

ORDER

This case came before a single justice of this court for a prebriefing conference in accordance with Rule 16(h) of the Rules of Appellate Procedure. The plaintiffs appeal from a summary judgment entered in the Superior Court in favor of the defendants.

After discussing the issues with counsel and examining the pre-briefing statements filed by the parties, the justice enters the following order.

1. All parties are directed to appear before this court or a hearing panel thereof on a date to be selected in order to show cause why the issues raised by this appeal should not be summarily decided. These issues include without limiting the generality of the foregoing;

   (a) whether a question of fact exists which should have precluded the entry of summary judgment,

   (b) whether the trial justice erred as a matter of law in granting summary judgment even if

no question of fact was disclosed on the record,

(c) whether the plaintiffs had standing to challenge the conveyances,

(d) whether issues presented by the parties have been preserved for appellate review.

2. The plaintiffs may file a supplemental memorandum not exceeding fifteen (15) pages in length on or before January 16, 1989. Thereafter, defendants may file supplemental memoranda not exceeding fifteen (15) pages in length on or before February 7, 1989. Defendants may file separate memoranda or may join in one or more memoranda as they see fit. In the event that plaintiffs wish to reply to defendants' memoranda, application will be made for permission to do so.

3. Plaintiffs, by reason of intervening equities do not challenge the conveyances made to St. Timothy Church Corporation (Warwick) and thereafter the conveyance by St. Timothy Church Corporation (Warwick) to Woloohojian Realty Corp.

Entered as an Order of this Court this 29th day of November 1988.

By Order,

_____

Clerk

Enter:
/s/ WEISBERGER, J.
WEISBERGER, J.

November 29, 1988

Know all Men by these Presents,

That I, William H. P. Faunce of the City of Providence in the State of Rhode Island in consideration of the sum of ten ($10) dollars to me paid by The Providence Society for Organizing Charity, a corporation established under the laws of the State of Rhode Island and located in the City of Providence therein the receipt whereof is hereby acknowledged, do hereby remise, release, and forever QUITCLAIM unto it the said Providence Society for Organizing Charity, its successors, Heirs, and Assigns forever, all the right, title, interest, property, claim and demand, which I now have, or of right ought to have, or claim, in and to that certain estate situated on Rocky Point Road, in the Town of Warwick, County of Kent and State of Rhode Island, known as "Lake View Hotel Property" comprising the land and all buildings and improvements thereon, the said land being described as follows: Beginning at a granite bound set in the west line of the highway leading from Rocky Point to Providence, thence N 1°14'W bounding easterly on said highway three hundred twenty-one and 5/10 (321.5) feet to a stone bound and land now or lately of George Hoxsie; thence N. 80°51'W bounding northerly on said George Hoxsie land twenty-one hundred and sixty-eight (2168) feet to Great Pond Brook, thence southeasterly bounding on said Brook and Great Pond to land now or lately of Isabel W. Colburn, thence north 89°15'E bounding southerly on said Colburn's land seventy-two and 9/10 (72.9) feet to a granite bound; thence in the same line eleven hundred and forty-one and 1/10 (1141.1) feet to the first mentioned bound, containing fifteen acres, one hundred twenty-six rods, be the same more or less, Being Lot No. 5 (five) on plat

entitled "Plat of the Division of Woodland belonging to the Estate of Hon. John R. Waterman, deceased, surveyed and platted by Commissioners appointed by the Hon. The Court of Probate of the Town of Warwick, by Robert W. Greene, C.E. Jan. 1883" recorded on page 47 of Book of Plats No. 2 of the land records of said Warwick.

Being the same property conveyed to this grantor by deed from Pyrce Owen dated February 26th, 1912 and recorded in said Town in Deed Book 81, at page 444.

To Have and to Hold, the same, with all the rights, privileges and appurtenances thereunto appertaining, unto and to the use of it the said Providence Society for Organizing Charity, its successors and assigns forever.

And I the aforenamed William H. P. Faunce for myself and for my heirs, executors and administrators, do covenant with the said Providence Society for Organizing Charity, its successors and assigns, that I will warrant and defend the aforedescribed premises unto the said Providence Society for Organizing Charity, its successors and assigns forever, against the lawful claims and demands of all persons claiming by, through or under me.

And I, Sarah E. Faunce, wife of the said William H. P. Faunce, in consideration of the sum paid as aforesaid, do hereby release and forever quitclaim unto the said Providence Society for Organizing Charity, its successors and assigns, all my right of dower in and to the aforedescribed premises.

In Testimony Whereof, we have hereunto set our hands and seals this 31st day of October in the year of our Lord one thousand nine hundred and twelve (1912).

Signed and sealed in presence of

/s/ Henry Solomon
State of Rhode Island

/s/ William H. P. Faunce
/s/ Sarah E. Faunce

County of Providence. In Providence on the 31st day of October A.D. 1912 before me personally appeared the above named grantors William H. P. Faunce and Sarah E. Faunce, his wife, both of them to me known and known by me to be the parties executing the foregoing instrument and severally acknowledged said instrument, by them executed, to be their free act and deed.

Recorded Nov. 1, 1912 at 8 a.m.

Witness:

/s/ James T. Lockwood
Town Clerk

/s/ Henry Solomon
Notary Public

Know all Men by these Presents;

That I, Patrick Fitzpatrick of the City of Providence on the State of Rhode Island (single) hereinafter called the Grantor, in consideration of the sum of Ten (10) Dollars to me paid by the Providence Society for Organizing Charity, a corporation established under the laws of the State of Rhode Island and located in the City of Providence therein, hereinafter called the Grantee, the receipt whereof is hereby acknowledged, do hereby give, grant, bargain, sell and convey unto the said Grantee and its successors and assigns forever, in fee simple, That tract of land, with buildings and other improvements thereon, situated in the Town of Warwick (at or near the part called Hoxie) and estimated to contain nineteen and 1/4 (19 1/4) acres more or less bounding easterly on the Road from Old Warwick to Providence for hundred thirty-one (431) feet more or less southerly on land now or lately of the Grantee (otherwise known as the "Lakeside Sanitorium" land) twenty-two hundred (2200) feet more or less westerly on Great Pond Brook so called and northerly on land formerly of Cottrell F. Hoxsie (now or lately of Charles F. Frey) about twenty-two hundred (2200) feet more or less.

Being the same tract so located which formerly belonged to John N. O. Hoxsie and was conveyed by the Administratrix of his estate to this Grantor by deed recorded with the land records of said Town in Deed Book 84 at page 252.

To Have and to Hold, the aforegranted premises, with all the privileges and appurtenances thereunto belonging, unto and to the use of the said Grantee, and its successors and assigns forever, in fee simple.

And I, the said Grantor do hereby, for myself and for my heirs, executors, and administrators, covenant with the said Grantee and its successors and assigns that I am lawfully seized in fee simple of the said granted premises; that the same are free from all incumbrances, that I have good right, full power, and lawful authority to sell and convey the same in manner as aforesaid; that the said Grantee and its successors and assigns shall by these presents at all times hereafter peaceably and quietly have and enjoy the said premises, and that I the said Grantor will, and my heirs, executors, and administrators shall, warrant and defend the same to the said Grantee and its successors and assigns forever against the lawful claims and demands of all persons.

In Witness Whereof, I have hereunto set my hand and seal this 29th day of February in the year of our Lord one thousand nine hundred and sixteen (1916).

Signed and sealed in presence of

/s/ E. Tudor Gross
State of Rhode Island

/s/ Patrick Fitzpatrick
U.S. Revenue Stamps
for $3.50

County of Providence. In Providence in said County on the 29th day of February A.D. 1916 before me personally appeared the above named Grantor Patrick Fitzpatrick to me known and known by me to be the party executing foregoing instrument and acknowledged said instrument by him executed to be his free act and deed.

Recorded Mar. 2, 1916 at 8 a.m.

Witness,

/s/ James T. Lockwood
Town Clerk

/s/ E. Tudor Gross
Notary Public

BOOK 232 PAGE 251

KNOW ALL MEN BY THESE PRESENTS,

That FAMILY SERVICE, INC., a charitable corporation of the State of Rhode Island, located in the City of Providence, in said State (formerly known as Providence Society for Organizing Charity), in consideration of the sum of One Dollar ($1) to it paid by CHILDREN'S FRIEND AND SERVICE, also a charitable corporation of said State of Rhode Island, located in said Providence, the receipt whereof is hereby acknowledged, pursuant to authority in it vested by decree of the Superior Court of the County of Providence and State of Rhode Island entered February 16, 1951, in that case entitled *"Family Service, Inc. v. William E. Powers, Attorney General of the State of Rhode Island,* Eq. No. 21550" does hereby give, grant, bargain, sell and convey unto the said CHILDREN'S FRIEND AND SERVICE, its successors and assigns forever,

1. That certain estate situated on Rocky Point Road, in the town of Warwick, County of Kent and State of Rhode Island, known as "Lake View Hotel Property," comprising the land and all buildings and improvements thereon, the said land being described as follows:

Beginning at a granite bound set in the west line of the highway leading from Rocky Point to Providence, thence N. 1°, 14' bounding easterly on said highway three hundred twenty-one and 5/10 (321.5) feet to a stone bound and land now or lately of George Hoxsie; thence N. 80°, 51'W. bounding northerly on said George Hoxsie land twenty-one hundred and sixty-eight (2168) feet to Great Pond Brook, thence southeasterly bounding on said Brook and Great Pond to land now or lately of Isabel W.

Colburn; thence N. 89°, 15′ E. bounding southerly on said Colburn's land seventy-two and 9/10 (72.9) feet to a granite bound; thence in the same line eleven hundred and forty-one and 1/10 (1141.1) feet to the first mentioned bound, containing fifteen acres, one hundred twenty-six rods, be the same more or less. Being Lot No. 5 (five) on plat entitled "Plat of the Division of Woodland belonging to the Estate of Hon. John R. Waterman, deceased, surveyed and platted by Commissioners appointed by the Hon. The Court of Probate of the Town of Warwick, by Robert W. Greene, C.E. Jan., 1883," recorded on page 47 of Book of Plats No. 2 of the land records of said Warwick.

BOOK 232 PAGE 252

However bounded and described, being the same premises conveyed to Providence Society for Organizing Charity by William H. P. Faunce, by deed dated October 31, 1912, recorded in the Land Records of said Town of Warwick in Deed Book 82, at page 118.

2. That tract of land, with buildings and other improvements thereon, situated in the Town of Warwick (at or near the part called Hoxie) and estimated to contain nineteen and 1/4 (19 1/4) acres more or less, bounding easterly on the Road from Old Warwick, to Providence four hundred and thirty-one (431) feet more or less; southerly on land now or lately of the Grantor (otherwise known as the "Lakeside Sanitorium" land) twenty-two hundred (2200) feet more or less; westerly on Great Pond

Brook so-called and northerly on land formerly of Cottrell F. Hoxsie (now or lately of Charles F. Frey) about twenty-two hundred (2200) feet more or less.

However bounded and described, being the same premises conveyed to Providence Society for Organizing Charity by Patrick Fitzpatrick, by deed dated February 29, 1916, recorded in the Land Records of said Town of Warwick in Deed Book 92 at page 60.

To have and To Hold the same, with all rights, privileges and appurtenances thereunto appertaining, unto and to the use of the said Children's Friend and Service, its successors and assigns forever, to be held by said Children's Friend and Service for its general uses and purposes.

In Witness Whereof, said Family Service, Inc. has hereunto caused its name to be signed and its corporate seal to be affixed by its officer thereunto duly authorized, and by its Board of Real Estate Managers, this 28th day of March, A.D. 1951.

The consideration is not such as to require that Federal documentary stamps be affixed.

In presence of:

Arthur E. Erickson
Allen W. Griffiths
As to H.D.S. and P.H.G.
Henry L. P. Beckwith
As to C.H.P.
David L. Illegible
As to D.H.I.G.
Robert E. Illegible

Family Service, Inc.
By Lauriston E. Knowlton
President
Board of Real Estate
Managers
Henry D. Sharpe
Preston H. Gardiner
Clarence H. Philbrick
Robert H. Ives Goddard
George H. Huddy, Jr.

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1989

FRIENDS OF WARWICK POND AND HOXSIE
ALSO WARWICK LAND TRUST, PAUL HULING,
JEANNE M. FOSTER, EILEEN NAUGHTON AND
KATHLEEN PREISS,
PETITIONERS,
V.
CHILDREN'S FRIEND AND SERVICE, INC.,
FRANK P. SHERRY, R&F ASSOCIATES,
RHODE ISLAND CENTRAL CREDIT UNION AND
JOHN DOES, ONE THROUGH FIVE,
RESPONDENTS,
AND JAMES O'NEIL, IN HIS CAPACITY AS
RHODE ISLAND ATTORNEY GENERAL
ADDITIONAL PARTY – RESPONDENT

PETITIONERS' RULE 19.6 NOTICE

SIRS:

PLEASE TAKE NOTICE that, in petitioners' belief, Saint Timothy's Church Corporation (Warwick) and Woloohojian Realty Corp., both additional parties below, have no interest in the outcome of the petition herein.

Dated: June 19, 1989 /s/ ROBERT S. STITT

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